



Indiana Judicial Nominating Commission
30 South Meridian Street
Suite 500
Indianapolis, IN 46204
(317) 232-4706

APPLICATION
FOR THE
COURT OF APPEALS OF INDIANA

Deadline – 12:00 p.m., April 27, 2015

The application for the August 2015 vacancy in the Second District of the Court of Appeals of Indiana includes two parts. Both Part One and Part Two must be completed. Part Two *must* be provided separately as directed in the instructions. Answers in Part One and Part Two are a matter of public record and will be supplied to the media and public upon request. However, only answers in Part One may be posted online by the Indiana Judicial Nominating Commission.

PART ONE, Sections 1 – 11

1. **Contact/General Information**

A. Full legal name and any former names.

Robert Randolph Altice, Jr.

B. State the full name (use initials for minor children), age, and relationship of each person residing in your household. For each adult living in the household (other than yourself), also state the person's occupation and employer.

Kristin L. Altice- 52, Spouse
General Counsel at Shiel Sexton Company, Inc.

John R. Altice- 23, Son
Bailiff- Marion Superior Court, The Honorable Patrick J. Dietrick

Kathleen B. Altice- 20, Daughter
Student- Miami University

C. Business address, email, and telephone number.

City- County Building
200 E. Washington St., Suite W-507
Indianapolis, Indiana 46204
baltice@indygov.org
(317) 327-3939

D. Attorney number.

16347-49

E. Month and year you were admitted to the Indiana Bar.

November, 1992

a. Indicate current law license status, i.e. active/inactive/retired.

Active

b. If you are or have been a member of the Bar of any other state, identify the jurisdiction and provide date(s) of admission and current license status.

Missouri, 1987, Inactive

F. Date and place of birth.

November 24, 1960
Norfolk, Virginia

G. County of current residence and date you first became a resident.

Marion County, Indiana
October, 1992

2. Secondary Education/Military Experience

A. List all undergraduate colleges and universities you attended. Include the school name; dates enrolled; degree or certificate earned; and any academic honors, awards, or scholarships you received and when.

<u>School</u>	<u>Dates Enrolled</u>	<u>Degree or Certificate</u>
Miami University Oxford, Ohio	1979-1983	BA-Political Science

- B. Include with your original application a certified transcript from each school named in Subsection 2A and attach copies of each transcript to each application copy. (If your social security number is on your transcripts, redact it *before* copying.)

Transcript attached under Tab A

- C. If applicable, list any military service. Include the name of the military branch; dates of service; last rank achieved; and any honors, awards, or commendations received and when. Attach a copy of your Certificate of Release or Discharge from active duty (“DD 214” paperwork).

Not Applicable

3. Post-Secondary Education

- A. List all law schools, graduate schools, and post-J.D. programs attended. Include the school name; dates enrolled; degree or certificate earned; class rank; and any academic honors, awards, or scholarships you received and when.

<u>School</u>	<u>Dates Enrolled</u>	<u>Degree or Certificate</u>	<u>Rank</u>
University of Central Missouri Warrensburg, Missouri	1983-1984	MS-Criminal Justice Administration	Unknown
<ul style="list-style-type: none">Received the honor of “Graduate Student of the Year” for the Criminal Justice Department.			
University of Missouri-Kansas City Kansas City, Missouri	1984-1987	JD	Unknown
<ul style="list-style-type: none">Dean’s Honor List second year of Law School			

- B. Include with your original application a certified transcript from each school named in Subsection 3A and attach copies of each transcript to each application copy. (If your social security number is on your transcripts, redact it *before* copying.)

Transcripts attached under Tab A

4. Employment

- A. Provide your employment history since graduation from college. Include name of employer, titles or positions, locations, and dates of employment.

I was a full-time student from 1979-1987. During the summer months, I worked various jobs to obtain income for the upcoming school year. During my first year of law school, I worked part time in retail during the evenings and worked as a law clerk/runner for a small law firm, Duggan Keleher and Svetlic in North Kansas City, Missouri.

In between my second and third years of law school, I worked for the Missouri Attorney General's Office as a law clerk. I wrote several appellate briefs and argued two cases in front of the Missouri Court of Appeals-Western District.

During my third year of law school, I worked as a certified legal intern for the Jackson County (Kansas City, Missouri) Prosecutor's Office. I wrote trial briefs and sat "second chair" on several high publicity murder trials. In addition, I cooked and tended bar at a small tavern in Kansas City, Missouri during this time to supplement my income.

I accepted a full time position as a deputy prosecuting attorney with the Jackson County Prosecutor's Office upon graduation from law school and passage of the Missouri Bar in 1987.

- B. If applicable, describe the nature and extent of your practice of law (present and former) and provide the names of your partners, associates, office mates, and employers.

Deputy Prosecutor-Kansas City, Missouri

As stated above, I began my legal career in 1987 as a deputy prosecuting attorney in Kansas City, Jackson County, Missouri. I was a deputy prosecutor until 1991. I was responsible for prosecuting my own caseload of general felony cases. Those cases included burglary, robbery, auto theft and murder cases. I tried to a jury several high publicity murder cases as a deputy prosecutor during this time.

During my second year in the office, I vertically prosecuted all vehicular homicide cases in the county while I continued to prosecute general felonies. As part of my vehicular homicide training, I attended the Northwestern Traffic Institute in Chicago, Illinois on two (2) occasions where I learned about the fundamentals of accident reconstruction and the nuances of prosecuting vehicular homicide cases. I successfully tried several high publicity jury trials involving these types of cases during this time.

During my final years in the Jackson County Prosecutor's Office, I was the Chief Deputy Prosecutor for the Drug Unit. I supervised approximately ten (10) deputy prosecutors. During this time period, Kansas City Missouri was

experiencing a crack cocaine epidemic. The citizens of Jackson County had recently voted to implement a ¼ cent countywide sales tax to fund the fight against drugs in its community. My unit was funded by this tax. The unit was responsible for providing legal advice to area law enforcement in their investigations (e.g. search warrants); preparing and presenting cases to the Grand Jury for charging purposes; and preparing and prosecuting all drug cases in the county.

As part of this unit, I was the deputy prosecutor in charge of an investigation involving some alleged members of organized crime. The significance of this investigation was that we used, for the first time, Missouri's State wire-tap statute. The investigation resulted in several prosecutions.

Civil Practice

In 1992, I left the Prosecutor's Office and went to work for a large civil law firm in Kansas City Missouri - Shugart Thomson and Kilroy. My primary area of practice was in medical malpractice defense. I prepared written discovery to the opposing parties and assisted my clients in answering written discovery. I prepared and produced my clients for depositions and took depositions of plaintiffs. I also spent time preparing medical experts for depositions that my firm had hired to represent our clients.

While at Shugart Thomson and Kilroy I also worked with a senior trial attorney on a couple of plaintiff cases. One case that I worked on involved a young man who had been seriously injured when his car struck some cattle which had escaped a broken fence line and wandered onto a highway in the middle of the night.

I left Kansas City in late 1992 and moved to Indianapolis, Indiana. I went to work for Wooden McLaughlin & Sterner. My primary area of practice was insurance defense. I handled various types of cases ranging from slip and fall cases to products liability cases. I conducted discovery in these cases which were venued throughout the State of Indiana. One particular case that I did extensive work on involved a construction accident case. I prepared the matter for trial and submitted a trial brief to the Court the week before trial. Prior to the submission of the brief, the Plaintiff had demanded over a million dollars to settle the matter. Upon receipt of the trial brief, the matter settled for the cost of litigation (i.e. less than \$10,000.00).

Deputy Prosecutor-Marion County

I returned to prosecution in 1994 when I went to work for the Marion County Prosecutor's Office. I missed being in the courtroom and took a significant pay

reduction to return to prosecution. I successfully tried an attempt murder case my second week in the office. I prosecuted major felony crimes which included burglary, robbery, and murder.

In 1997, I was promoted to Chief of the Felony Division where I supervised 35 major felony prosecutors and support staff in the seven (7) major felony courtrooms in Marion County. During this time I continued to prosecute a select number of high publicity cases including State of Indiana vs. Kerrie Price in 2000 (Death Penalty Case).

During part of this time I also acted as Chief Counsel for the Marion County Prosecutor's Office. I had the opportunity to work with the legislature for a session. During that session I worked on the Domestic Battery Statute and the Possession of a Firearm by a Serious Violent Felon Statute. Both statutes became law that session.

I was a Marion County Deputy Prosecutor from 1994 to 2000.

In November of 2000, I was elected to the Marion Superior Court bench and began my judicial career in January of 2001.

5. Trial/Judicial Experience

A. Describe the extent of your jury trial experience, if any.

As a deputy prosecutor in both Jackson County, Missouri and Marion County, Indiana, I tried, as the lead or first chair attorney, over 100 major felony jury trials, including 25 murder cases.

B. Describe the extent of your bench trial experience, if any.

It is difficult to estimate the number of bench trials I tried as a deputy prosecutor. I certainly tried many more bench trials than jury trials as a deputy prosecutor. In Marion County there were occasions when I tried multiple major felony bench trials in a single day. On one occasion I tried four major felony bench trials in one day.

C. If applicable, describe the nature and extent of your judicial experience (including as a judge *pro tempore*). Include a description of your experience presiding over jury trials, if any.

I have been a Marion Superior Court Judge from 2001 until the present. I was the Judge of criminal Court 2 from 2001 to 2012 where I presided over major felony cases. During that time I presided over 250 major felony jury trials. Of those jury trials, over 75 were murder cases and over 75 were sex offense cases.

Many of these cases were high publicity cases. I have handled 7 death penalty cases.

On three (3) occasions, I was appointed by the Indiana Supreme Court to serve as a special judge in cases outside of Marion County. I was special judge on a kidnapping and rape case out of Brown County, Indiana. Two (2) kitchen workers at the Brown County Inn kidnapped a young waitress and were eventually apprehended in St. Louis, Missouri. I conducted jury trials for both defendants. I was appointed special judge in a shaken baby case out of Hendricks County, Indiana. That matter also resulted in two (2) jury trials as the first trial ended in a hung jury. Lastly, I was appointed special judge on a death penalty case in Allen County, Indiana. This matter is discussed in more detail under the significant legal matters section.

In January 2013 I began my term presiding in Civil Court 5. I have tried 13 civil jury trials. Those cases have included slip and fall cases, motor vehicle accidents and in January of this year I tried a 6 day medical malpractice case.

In addition to my normal court room work, I have served in various administrative positions with the Marion Superior Court.

I was appointed chair of the Marion Superior Court Criminal Term from 2005 to 2007. In that capacity, I presided over monthly meetings attended by the Criminal Court Judges and agency heads from related criminal justice groups e.g. the Prosecutor's Office, the Public Defender Agency, the Probation Department, Community Corrections, etc... At these meetings the term worked on and solved issues relating to the Marion County Criminal Courts. Those issues ranged from changing local rules dealing with bail to issues dealing with technology.

In 2007 I was elected by my colleagues on the Marion Superior Court to serve on the Executive Committee for two (2) years. The Executive Committee of the Marion Superior Court is comprised of four (4) judges, two (2) from each party, and is responsible for the administration of the Marion Superior Court. (The Marion Superior Court has approximately 850 employees.) The committee met weekly and made decisions on various issues affecting the Court including grant applications, personnel matters, weighted caseload measures, legislative agenda items, budget issues and technology issues. The executive committee was chaired by the presiding judge. The presiding judge chaired the meeting and had the tie breaking vote whenever the committee deadlocked on a decision. The position of presiding judge changed parties every two (2) years.

In 2009 I was elected as the Presiding Judge for the Marion Superior Court and held that position until my term expired at the end of 2011. During my term as Presiding Judge our Court was asked to reduce our budget. We were

successful in reducing our budget from 55 million dollars to 50 million dollars. As Presiding Judge I attended and assisted the Court's Chief Financial Officer with our budget presentation to the City County Council.

Also during this time our Court continued to make technological progress as we implemented an electronic case filing application in our civil division Courts for collections and mortgage foreclosure cases. Another significant accomplishment during my tenure as Presiding Judge was the relocation of our Traffic Court. The Marion Superior Court Traffic Court is the highest volume court in the State of Indiana. Our Court was located at an old high school that was not conducive to handling the large number of cases heard on a daily basis. Space was tight and parking was limited. We received six sigma assistance to make our process more efficient and found a much larger centrally located facility with plentiful parking. We placed state of the art kiosks in the facility to allow offenders the opportunity to pay their tickets quickly. The result was a much more efficient facility and fewer complaints from the general public. All of these accomplishments were the result of hard work by many of my colleagues and the talented and intelligent members of Marion Superior Court's Office of the Court Administrator.

Currently I am the Chair of the Marion Superior Court Civil Term having been appointed January of 2015 for a two (2) year term. Like the chair of the Criminal Term, I am responsible for holding monthly meetings with the civil judges of the Marion Superior Court to address various issues specific to the civil bench. The next two (2) years will be very important to our civil bench as we hope to expand electronic filing in our civil courts.

I am a 2003-2004 graduate of the Indiana Graduate Program for Judges. The graduate program is a week long course of academic study and the participants are required to make a two (2) year commitment. My class included approximately 25 judges from around the State of Indiana and took place in Brown County, Indiana. The faculty included nationally recognized law professors from the University of Virginia and Indiana University. At the conclusion of the program each year the participants were required to take law school examinations.

6. Professional Experience

Include as writing samples, four selections (in total) from the written materials listed below in Subsections 6A – 6C.

- A. If applicable, list up to five trial or appellate briefs and/or judicial opinions you have written. Refer to them by caption, case number, and filing date.

1. Noble Roman's, Inc. v. Merrick Shell Food Mart, Inc., et. al.; Cause No. 49D05-1405-CC-017709; April 24, 2015; Order on Motion for Summary Judgment.
2. State of Indiana v. Desmond Turner; Cause No. 49G02-0606-MR-101336; November 20, 2009; Sentencing Order
3. State of Indiana v. Tommy Holland; Cause Nos. 49G02-0311-MR-191548 and 49G02-0311-MR-194323; December 9, 2005; Sentencing Order.
4. State of Indiana v. Ronald Covington, Jr.; Cause No. 49G02-0206-MR-157363; October 22, 2004; Sentencing Order.
4. State of Indiana v. Michael Shannon; Cause No. 49G02-0109-CF-185104; March 19, 2003; Sentencing Order.

See Orders attached under Tab B.

- B. If applicable, list up to five legislative drafts or court rules you have written or to which you contributed significantly. Refer to them by official citation, date, and subject matter.

House Bill 1747 (1999 Legislative Session)

This was a bill that the City of Indianapolis was proposing during the 1999 legislative session. I was working with Senator Theresa Lubbers on a similar bill in the Senate and we combined our efforts on this bill. The bill had several aspects that dealt with Domestic Battery. It allowed Judges in the Protective Order Court to remove weapons and take gun permits from respondents who posed a threat to the protected person. It increased the marriage license filing fee, with the increased funds to be deposited in a fund to assist victims of family and domestic violence. It also made it a D Felony for persons who committed a violent offense in the presence of a child during a domestic altercation. I worked with legislative services in drafting language for the bill and assisted in arranging witnesses to testify on behalf of the bill. The bill passed both houses of the legislature, was signed by the Governor and became effective July 1, 1999.

Senate Bill 165 (1999 Legislative Session)

This bill added the offense of Unlawful Possession of a Firearm by a Serious Violent Felon to the Indiana Code (I.C. 35-47-4-5). Senator Robert Meeks sponsored this legislation. I worked on drafting the statute with legislative services and testified at hearings. It repealed Indiana's previous statute pertaining to possession of a firearm by a person convicted of a felony – a class D Felony. The new statute enumerated which prior felony convictions made a person a Serious Violent Felon and made the offense a class B Felony. The bill

passed both houses of the legislature, was signed by the Governor and became law July 1, 1999.

2009 and 2010 Legislative Session

During my tenure as presiding judge of the Marion Superior Court I testified before the Commission on Courts and worked with our lobbyist as we were successful in beginning to convert our Court Commissioners to Magistrates through legislation. A process that continues today.

- C. If applicable, list up to five of your contributions to legal journals or other legal publications. Provide titles, official citations, and a brief description of the subject matter.

Indiana Judicial Center, Civil Benchbook Committee 2009 to present

The Civil Benchbook Committee reviews, revises and approves for publication the Judicial Center's Civil Benchbook. As a member of that committee, I have reviewed and revised the following tabs:

2010	Tab 100	Attorney Fees
2011	Tab 20	Discovery
2012	Tab 70	Contempt
2013	Tab 155	Class Action

I am presently reviewing and revising Tab 35, Adjudication without Trial, along with Commissioner Mark Jones.

- D. Identify the five most significant legal matters entrusted to you, whether as a judge or lawyer, and describe why you believe them to be so.

1. State of Indiana v. Paul Coulis; Cause No. 96-110640 and State of Indiana v. Angelo Coulis; Cause No. 96-110642.

This was a matter that I handled as a deputy prosecutor. I received the case after it had been pending for some time and the judge was requesting that it be resolved soon. The case arose out of a bus accident that occurred on October 14, 1995 at the Keystone Exit on Interstate 70. The bus overturned on a rainy fall night and a 13 year old child and a pregnant female were killed. The bus had been chartered by an Indianapolis high school to take fans and players' families to and from a football game in Jeffersonville, Indiana. Paul and Angelo Coulis were the owners of the bus company which was located in Hammond, Indiana. Upon extensive investigation, it was determined that the brakes and many other components of the bus were in poor working condition. Further investigation revealed that the owners knew of these defects and nevertheless

put the bus on the road. A Marion County Grand Jury returned a true bill against Paul and Angelo Coulis charging them each with reckless homicide. The deputy prosecutor who had led the case through the investigation and presented the case to the Grand Jury left the office for another job. The case had languished for some time when I was asked to take over the prosecution of Paul and Angelo Coulis.

A colleague agreed to work with me and we began to prepare our case for trial. The defense attorneys were two of the finest in the state and we knew we would be put to the test.

We had to first establish rapport with our victims, who were skeptical. They had been neglected for some time and did not believe the law would punish two (2) people who owned the company that owned the bus that killed their loved ones. One of the more difficult issues to deal with was that the pregnant female who perished in the overturned bus was the daughter of the head football coach. It was a lot to deal with for 2 young deputy prosecutors. Like all cases, every victim, and victims family has a story.

The investigation was unique as we searched for our witnesses, many of whom had moved, in northern Indiana – mechanics, the bus driver, record keepers and other former employees of the company. We traveled next by car to Washington D.C. to prepare our expert witness in this matter. It was the first time as a deputy prosecutor that I had the resources to hire, travel and prepare such an excellent witness as this.

On the eve of the trial and following the deposition of our expert witness, Paul and Angelo Coulis plead guilty to reckless homicide on May 15, 1998. In an emotional sentencing on July 10, 1998 both received 3 years work release, followed by 3 years on home detention and then 2 years probation.

Of course as a deputy prosecutor you are always faced with the fact that many of your victims will never see their loved ones again, but it is satisfying, if only for a brief moment to see them smile.

The original police investigation in this case indicated that driver error and/or road conditions were the potential cause of the accident and subsequent deaths. With hard work and the appropriate resources we were able to hold the correct people responsible. Overall it was very satisfying professionally. It, of course, was also satisfying emotionally.

2. State of Indiana v. Kerrie Price; Cause No. 97-028645.

This likewise was a matter I handled as a deputy prosecutor along with Sheila Carlisle, now a Marion Superior Court Judge. Defendant Price shot and killed

two security guards at the Meadows Housing Complex. He had previously been mistakenly released from a Marion Superior Court and had an open warrant for his arrest. After being confronted by two (2) security officers, he shot his way out of an apartment killing Officer Black and Officer Northern. He remained at large for two (2) days and was arrested after a SWAT standoff in a home south of Broad Ripple. The case received an enormous amount of publicity in the Indianapolis area. A Request for Death Sentence was filed. Judge Carlisle and I were assigned the case and two (2) certified death penalty attorneys were appointed to represent Price. It took three (3) years to prepare the case for trial and well over 100 depositions were taken. During the depositions of many of the law enforcement witnesses and based on pleadings filed by the defense, it became clear that part of the defense would be the lack of training that these security officers received prior to that fatal day. The argument being that if they would have been better trained, they would have never put themselves in such a vulnerable position during the encounter. As a deputy prosecutor, I found this position irrelevant and dismissed it. I focused on the facts.

The case was tried in January of 2000 before the Honorable Robyn Moberly. After two weeks of trial, the jury found Defendant Price guilty of two counts of murder in just three (3) hours.

Following the guilt phase of the trial, the case moved to the penalty phase. After such a quick verdict, I was feeling confident that the jury would recommend what I believed was the appropriate punishment. The jury, after the penalty phase recommended a sentence of life without parole.

I was shocked, disappointed and confused. How could the jury come to this recommendation? Did they actually believe that insufficient training of these officers warranted a sentence less than the death penalty?

After several months of reflection, I came to the conclusion that justice was served. The system worked. The prosecution, defense, judge and the jury all did their job. This was the last major trial I tried as an attorney. I took the bench the following year. It was a significant trial in that it made me realize what a difficult job jurors have when they decide a case. It also reminded me that there are so many different factors that jurors take into account in making a decision in any case. The transition from deputy prosecutor to trial judge can be a difficult one. This case constantly reminds me that there are two (2) sides to every case. As I tell all of my jurors before each trial, of the many jury trials I have presided over I can count on one hand the number of times I have disagreed with the jury. Juries get it right.

There were two (2) other significant things that occurred as a result of this case. The publicity the case received help expose a section of the Indianapolis Community that was mired in poverty. As a result, conditions in this area have

received funds and are beginning to improve. And, of course, it brought to light the need for better training of security guards.

3. State of Indiana v. Denise Moore; Cause No. 49G02-0402-FB-02400.

This was a jury trial in which I was the trial judge. Denise Moore was a case worker with the Office of Family and Children. Twin children were born cocaine positive and were immediately made wards of the Office of Family and Children. Moore was assigned to the case. The twins were eventually adopted by a family alleged to be relatives of the children. As part of the adoption procedure, Moore prepared a necessary report entitled an Adoptive Home Study. In that report, she indicated that the adoptive family had no criminal history and had no previous contact with the Office of Family and Children. Both statements later proved to be false. If the previous history would have been known at the time of the adoption, the adoptive family would have been prevented from adopting the twins.

In January of 2002, the twins were taken to Riley Hospital. Both were emaciated and showed numerous signs of being beaten. One of the children died. The adoptive family, husband and wife, were convicted of child neglect. A Marion County Grand Jury indicted Denise Moore on two counts of neglect of a dependent and obstruction of justice. The jury trial of Moore occurred in January of 2005. Moore was represented by a very skilled defense attorney. He had entered his appearance on behalf of Moore and I later learned that he took the matter for a very minimal fee. During the trial the attorney requested, on numerous occasions, to make an “offer to prove” when I overruled objections and/or denied motions filed on behalf of Moore. This often required dismissing the jury from the Courtroom so that the attorney could make his record.

As a trial judge, this can be a frustrating experience. Depending on the frequency of the requests, it can cause a trial to take much longer to conclude and breaks up the flow of the trial. Jurors often do not understand the necessity of constantly being removed from the Court and often feel that the Court is trying to keep relevant information from them. It requires the trial judge to be patient.

This case received extensive publicity both pretrial and during the trial. I worked hard to be patient and allowed the attorney to make his record for possible appeal whenever requested.

Moore was acquitted of the neglect charges but was found guilty of the obstruction charge. I sentenced her to a term of probation. The Court of Appeals reversed and vacated the conviction due to a violation of the statute of limitations and because it held that there was insufficient evidence to support Moore’s obstruction conviction.

When I received the opinion from the Court of Appeals, I immediately thought of what a masterful job Moore's attorney had done in making his record and preserving any error for the Court of Appeals to review. While he may have lost the case at the trial level he was successful for his client at the next level.

As a trial judge this case was significant for me because it reminded me to be patient and allow attorneys to try their case. Because the case was a significant case in the community and the defense attorney so reputable, I couldn't help but think that I may have been more patient in this matter than other less high profile cases. Thus, it was an excellent reminder for me that I should be patient and allow attorneys to make their record no matter what type of case I was hearing.

The case was also significant in the community because it brought to light problems within the Office of Family and Children which resulted in legislation setting forth stricter guidelines for that agency. I believe it also resulted in caseworkers being more diligent in their duties.

4. State of Indiana v. Zolo Agona Azania.

Azania was convicted and sentenced to death for the 1981 murder of a Gary, Indiana police officer. Azania had only recently been released from the Department of Corrections after serving time for a manslaughter conviction. The case was reversed on three separate occasions by the Indiana Supreme Court. The first two reversals resulted in Azania's death sentence being set aside. It should be noted that the underlying murder conviction was affirmed in those two instances. The first reversal occurred due to ineffective assistance of counsel. The second reversal occurred as a result of irregularities in the Allen County jury pool selection process. The third and final reversal occurred when the trial court granted Defendant Azania's petition barring the State from seeking the death penalty due to the passage of time. The case was remanded to the trial court to allow the State the opportunity to proceed with the death penalty phase.

Due to the unavailability of the trial court judge, I was appointed as Special Judge by the Indiana Supreme Court on November 7, 2007.

The Defendant Azania had spent 27 years on death row. Based on pleadings and pretrial conferences in this case, I learned that almost all of the witnesses who testified in the original case were now deceased. Most of the fallen police officer's relatives were also now deceased.

Just prior to the penalty phase retrial, the parties informed the Court that they had reached an agreement. On October 17, 2008, Defendant Azania was

sentenced to 74 years in the Department of Corrections pursuant to a Stipulated Sentencing Agreement.

This case may seem to be significant to most because it could be viewed as the quintessential case of “justice delayed is justice denied”. I have always used this case as a reminder to make sure to do things correctly the first time.

In the seven (7) death penalty cases that I have handled as a trial judge, I have given the attorneys plenty of time to prepare their case. While this can be frustrating to the families of all involved, it is essential to making sure that the case is not reversed due to ineffective assistance of counsel, newly discovered evidence or failure to disclose exculpatory evidence. In addition, I have always scheduled monthly pretrial conferences in these cases for the purpose of making sure the attorneys are progressing with the discovery process and their penalty phase investigations and to handle any pretrial motions. These two small things help ensure that by the time a case of this magnitude is set for trial, I feel confident that if convicted, the case should not be reversed for any pretrial abnormalities.

I also find this case significant because it shows how throughout the recent history of our Indiana courts we have gone to great lengths to strengthen our system of justice. As stated above, this case was originally reversed due to ineffective assistance of counsel. Since that time our Supreme Court has implemented rules that require attorneys representing indigent defendants facing the death penalty be certified (i.e. they must meet certain strict guidelines before they can be appointed in a death penalty case.) The second reversal occurred due to jury pool irregularities. Since that time our Supreme Court has gone to great lengths to improve our jury selection process. For example, the Court has expanded the types of lists that our Courts can choose jurors from in order to ensure a fair cross section of our community is represented on juries.

It is improvements such as this that make me proud to be an Indiana trial judge.

5. State of Indiana v. Desmond Turner; Cause No. 49G02-0606-MR-101336.

Desmond Turner was charged with the murder of seven family members, including three children (ages 5, 9 and 10), which occurred on June 6, 2006. The case was described in the media as the worst mass murder in the history of the City of Indianapolis. The State requested a sentence of death. After three years of discovery and motion hearings, the case was ready to proceed to jury trial.

As the trial judge I had made all the necessary preparations for this unique case. My staff made all of the arrangements for jury sequestration. I had entered an Order setting forth guidelines for the media. The Sheriff's Department had planned all the necessary security measures for the case as there had been alleged threats of retaliation by gangs from Mexico.

In September of 2009, just prior to the beginning of jury selection, Defendant Turner waived his right to a trial by jury. In exchange for the executed waiver, the State dismissed the Request for Death Sentence.

I had conducted hundreds of court trials by this time in my career but none would be as important as this one. The Court trial began on October 12, 2009. I began each day being driven to work by an armed officer in charge of judicial security. My home and family were kept under close surveillance. The security in the Courtroom was intense. The media coverage was extensive as everyone wanted to know what happened on June 6, 2006.

Once the evidence began my focus had to become intense in order to ignore the many distractions associated with the trial. I was fortunate to have phenomenal lawyers on both sides of the case and each side did a great job of presenting their side. The case was a circumstantial evidence case and the decision was a difficult one. The court trial ended on October 22, 2009.

I found Turner guilty of seven counts of murder and various other charges. Following a brief penalty phase, I sentenced Turner to life imprisonment without parole. Several weeks later Defendant Turner's Co-Defendant, James Stewart, was convicted by a jury of the seven murders. I presided over that jury trial.

The case was significant to me because it is the most difficult case that I have ever faced in my fourteen years as a judicial officer. In addition to the media coverage and security issues, the Defendant was difficult to deal with at times. Prior to the trial, Turner had assaulted Corrections Officers at the Marion County Jail on three (3) separate occasions. Consequently, I conducted three (3) jury trials involving these allegations and eventually signed an order transporting Turner to the Department of Corrections to await trial.

Clearly the most difficult part of the case was the decision itself. I knew my decision would have an impact on the community, the Defendant and his family members and the family of the victims. I wanted to make certain that my decision was the correct one. After the close of all the evidence and after final arguments I made my decision and felt confident about that decision.

This case is a constant reminder to me about the importance of the decisions I have to make on a daily basis and the responsibility that comes with making

those decisions. Whether it is a big case such as this or an appeal from a Small Claims Court case, every decision has an impact on someone. It is a big responsibility that I do not take lightly.

7. Efforts to Improve the Legal System, Administration of Justice, or Society

- A. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) toward the improvement of the law, the legal system, or the administration of justice.

Ad Hoc Tax Court Advisory Task Force

I was appointed by the Chief Justice on April 20, 2015 to serve on this Task Force chaired by Court of Appeals Judge James Kirsh. There are seven (7) persons appointed to the Task Force and I am the sole trial judge appointed. The Task Force has been directed to examine the caseload, resources, staffing, performance and operations of the Indiana Tax Court, including to review and analyze methods and procedures for case dispositions.

Board of Directors – Judicial Conference of Indiana

In 2014, I began serving on the Board of Directors. The Judicial Conference of Indiana is made up of all of Indiana's judges. The Board, chaired by the Chief Justice, is the policy-making body of the Conference. Forty-five (45) judges from the State of Indiana serve as directors. The Board meets approximately four (4) times a year and has certain statutory responsibilities. Examples include: promoting an exchange of experience and suggestions regarding the operation of Indiana's judicial system; promoting continuing education of judges, probation officers and other court personnel; and administering, certifying and supporting Indiana's Problem Solving Courts.

Sagamore American Inn of Court

I am a member of this organization. I was the President of this organization from 2011 to 2013. This organization is dedicated to the advancement of the law and most importantly to lawyer professionalism and civility. We have approximately 80 Judges and Attorneys in our Inn. We meet approximately eight (8) times a year for dinner and a CLE accredited program put on by the members.

Community Relations Committee - Indiana Judicial Conference

One of the primary goals of the Committee is to educate the public about the work done by Indiana's Judiciary. I was first appointed to this Committee by the Chief Justice in 2002 for a 3 year term. I received my second 3 year appointment in 2005 and remained on the Committee for an additional year. The last 2 years I was chair of the Committee. During my 7 years on this Committee I worked closely with Steve Key of the Hoosier State Press Association as he developed a Bench-Media Guidebook. During my time as

chair, my Committee and I worked with the Indiana Supreme Court to develop “The Speakers Bureau.” This is an online directory of Judicial Officers available to speak to students in primary and secondary schools.

Civil Benchbook Committee - Indiana Judicial Conference

I currently serve on this committee. I was appointed by the Chief Justice to the Committee for a 3 year term beginning in 2009 while I was a criminal court judge. I was reappointed in 2012 for another 3 year term. This committee has worked on updating the Civil Benchbook- a guide for civil judges in the State of Indiana.

Cameras in the Courtroom Project

I was one of the 8 Indiana judges that participated in a pilot project authorized by the Indiana Supreme Court that allowed cameras in the court room under certain terms. The pilot project was from July 1, 2006 to December 31, 2007. During this pilot project, I had three (3) hearings that were televised.

Character and Fitness Committee of the Indiana Board of Law Examiners

I am a member of the Character and Fitness Committee of the Indiana Board of Law Examiners. I have also been appointed and served as a hearing officer on three (3) attorney disciplinary cases.

Judicial Performance Task Force

This special task force was convened by the Indiana Supreme Court. The purpose of the task force was to determine whether “Judicial Evaluations” might serve a useful purpose in Indiana. The group was comprised of 6 Judicial Officers from around the state of Indiana, Lilia Judson, Executive Director of State Court Administration and Jane Siegel, Executive Director of the Indiana Judicial Center. The group first met in March of 2008 and issued its final report in September 2010. The most significant contribution of the task force was to inform the Indiana Judiciary about the Court Tools program available from the National Center for State Courts. Several Indiana Courts, including Marion County, are now using this educational tool. As part of this task force, I had the opportunity to attend the Judicial Performance Evaluation seminar in Denver Colorado. This seminar was conducted by the Institute for the Advancement of the American Legal System. I shared what I learned at the seminar with members of the task force.

Leadership in Action Program

This was a program funded by the Annie E. Casey Foundation. The mission statement of the program is “All adult offenders in Marion County are successfully reintegrated into their community.” There were approximately 40 participants, representing various state and local agencies, who were involved in this program. The group met 2 times a week. However, I met with the group

once every other week. I participated in this program from April 2009 to August 2010.

Marion County Community Corrections Advisory Board

I was appointed to this advisory board in August 2002 and remained on the board until early 2005. The most significant accomplishment of the board during this period was the construction and opening of the Duval Work Release Center in Marion County.

B. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) concerning civic, political, or social issues.

1. I served on the Super Bowl Legal Subcommittee from 2010 to 2012.

2. As Presiding Judge in Marion County for 2 years, I hosted a television show entitled, "Off the Bench". The show aired on Channel 16 and I taped 2 shows each month. Guests on the show included the Mayor of the City of Indianapolis, the Chief Justice of the Indiana Supreme Court, the Indiana Superintendent of Public Schools and many other civic leaders.

3. As a member of the North United Methodist Church, I worked once a month in 1996 and 1997 for the Church's soup kitchen, "Bread 'n Bowl".

4. In 1997 and 1998, I delivered meals for Meals on Wheels, Inc. once a month.

5. From 1998 to 1999, I was a precinct committeeman for the Republican Party in Marion County. I was an assistant ward chair from 1999 until I formed my exploratory committee to become a judge in 2000.

C. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) to improve your local, state, or national community through charitable work or public service.

1. **Indianapolis Police Athletic League Board of Directors (1997-2000).**

The mission statement at that time was as follows: The mission of the Police Athletic League is to involve the at-risk youth of the Indianapolis community in educational, cultural and fitness activities that will deter crime, increase self-esteem and promote a positive relationship with police.

2. **Coburn Place Safe Haven Board of Directors (2002-2006).**

Coburn Place is a transitional housing facility for victims of domestic abuse. Families generally live in the facility for 6 months or until they become self-supportive.

3. Martin Luther King Community Development Corporation Board of Directors (1999-2002).

This was a not-for-profit organization that used public and private funds for revitalization projects around the area of 38th Street and College Avenue in Indianapolis, Indiana.

4. Rotary Club of Indianapolis Member (1996-2002).

Rotary is a service club made up of business and professional men and women. In 2000, I was part of a small group of Rotarians that hosted a team of judges from Russia.

- D. Describe the nature and extent of any *pro bono* legal services you have contributed.

When I was in civil practice in Kansas City, Missouri, I was appointed as a guardian ad litem for a young child in what I recall was a child in need of services case. I have recently submitted my name as a potential candidate to the Supreme Court to serve as the judicial chair of the Pro Bono District Committee for Marion County. This position recently became vacant when Judge David Shaheed retired. Since taking the civil bench in 2013, I am amazed at the large number of unrepresented litigants who appear before me and who would benefit from having legal representation.

- E. Indicate your experience teaching law. Provide the dates, names of institutions or programs, and a description of the subject matter taught.

Indiana Continuing Legal Education

December 8, 2005

“Indiana Judges on Indiana Evidence: The Tough Issues Argued”

I was the moderator for this day-long seminar. Twelve judges from around the State of Indiana participated in this CLE. Six plaintiff and six defense attorneys made objections after watching a scripted video tape fact pattern. The judges made electronic rulings and then I led the discussion regarding those rulings.

Indiana Continuing Legal Education

October 20, 2015 – To be presented

Indiana Judges on Indiana Evidence

I will serve again as moderator for this daylong seminar. I previously moderated this seminar on December 8, 2005 (see above for description).

Spring Judicial Conference

April 27, 2011- Sentencing: Part 1

“The Sentencing Hearing and Sentencing Considerations”

April 28, 2011- Sentencing: Part 2

“The Sentencing Decision and the Sentence on Appeal”

I served on a panel with Judge Michael Barnes, Judge Melissa May, Justice Steven David, Judge Maria Granger and Professor Joel Schum. The panel discussed the sentencing process, legal decisions regarding sentencing and participated in mock sentencing hearings.

Indiana Continuing Legal Education

March 2001 – 2015 (Annually except for 2007, 2013 and 2014)

“Trial Advocacy Skills College”

This is an annual mock trial college where lawyers who want to improve their trial skills work on all aspects of a jury trial. Participants are critiqued by judges and lawyers from around the State.

Indiana Continuing Legal Education

April 28, 2009

“How to Analyze Every Indiana and/or Federal Evidence Issue You will Ever Confront”

I was a panelist for this day long evidence CLE. The section of the seminar that I was involved with concerned “Evidentiary Foundations”. The co-panelist that I shared this section with was Judge Nancy Vaidik.

Spring Judicial College

April 17, 2008

“Handling the Capital Case”

I was a member of a panel along with Judge Cynthia Emkes, Judge Frances Gull, Judge Teresa Harper and Professor Joseph Hoffman for this full day seminar dealing with all aspects of a death penalty case.

In 2010 to 2011, I participated in the Supreme Courts’ “Teacher Workshop”. This is a program developed by Dr. Elizabeth Osborn, Assistant to the Chief Justice for Court History and Public Education.

I am a guest lecturer at many area middle and high schools. I have met these teachers through Dr. Osborne’s “Teacher Workshop”, via The Speakers Bureau or through jury service. I have lectured annually at the following schools for at least five (5) years: Cardinal Ritter High School, Warren Central High School and Lincoln Middle School (Pike Township).

Indiana Judicial Conference

September 10, 2014

“Attorney Admission and Discipline: The Judge’s Role”

I spoke with Judge Mary Harper and Executive Secretary of the Indiana Supreme Court Disciplinary Commission Mike Witte. My main topic was the judge’s role as a disciplinary officer.

In 1999 and 2000, I taught Criminal Law for the Lawyer’s Bar Review course.

Indiana Judicial Conference

September 15, 2005

“The Judicial Ethics ‘Jeopardy Game’”

I was a panelist on this audience participation session that dealt with various ethical issues facing the Judiciary.

Indianapolis Bar Association

November 14, 2005

“Laying the Foundation for the 10 Most Common Pieces of Evidence in a Criminal Trial”

I spoke on the subject of how to introduce various types of evidence in a criminal trial. Attorney James Bell and Attorney Jennifer Lukemeyer also spoke at the seminar.

Indiana State Bar Association

November 8, 2007

“Cameras in the Indiana Courtroom”

I served on a panel that discussed the Indiana Supreme Court’s pilot project to determine whether to allow cameras in Indiana’s courtrooms.

Indianapolis Bar Association

May 11, 2011, August 15, 2011 and November 10, 2011

“Judicial Roundtable”

I organized and served as moderator along with three lawyers, three judicial roundtables. The topics were civil court issues, criminal issues and domestic relations issues respectively.

Law School for Journalists

July 20, 2011

Indiana University School of Law – Indianapolis

“20 Years with 6 Suspended & Credit for Time Served”

I served on a panel with Judge Maria Granger and Professor Joel Schum. The panel described the sentencing process and the law in the State of Indiana regarding sentencing to journalists from around the State of Indiana.

Marion County Bar Association

October 17, 2013

“Coffee Chat”

I spoke to this Association with Judge Rudolph Pyle about service as a judicial officer.

Indianapolis Bar Association

November 17, 2013

Judges Round Table

I served and was co-chair at this annual panel discussion for the civil litigation section.

National Business Institute

November 22, 2013

“Voir Dire and Jury Selection”

I presented a section of this daylong seminar titled “A Judge’s Perspective on Jury Selection.”

Defense Trial Counsel of Indiana

September 25, 2014

Judicial Round Table

I spoke with Judge Jim Osborn regarding various issues facing civil trial attorneys.

Indianapolis Bar Association

November 12, 2014

Judges Round Table

I served again on this annual panel discussion with Justice Mark Massa and Judge Cale Bradford for the civil litigation section.

Indianapolis Bar Association

December 10, 2014

Surviving & Thriving- “Lessons Learned from the Bench and Practical Advice”

I served on a panel with Judge Sheryl Lynch, Judge Amy Jones and Judge Heather Welch for this seminar put on by the solo/small firm section.

Indiana Trial Lawyers Association

March 27, 2015

Applied Professionalism for Young Lawyers

I spoke with attorney Robert Johnson and the topic was “The Court System”.

American Bar Association

May 8, 2015

I will speak with Judge Tim Oakes and Judge Heather Welch at the ABA's Litigation Section Trial Practice Regional Seminar. Our topic will be "Top Trial Tips from 2014."

8. Memberships and Other Activities

A. List any memberships and offices you have held in professional organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

1. Indianapolis Bar Association

a.Member 1993-Present

b.Chair of the Criminal Justice Section in 2005

i. Co-Recipient of the 2005 President's Award

c. Board of Directors At Large Member in 2012 and 2013

d.Co-Chair of the 2013 Bench Bar Conference.

June 13, 14 and 15, 2013 in Louisville, Kentucky.

I co-chaired the event with Judge Annie Christ-Garcia

e.Served on the November 2013 Nomination Committee to select members of the 2014 Board of Directors.

2. Indianapolis Bar Foundation

a.Distinguished Fellow in 2003

b.Distinguished Senior Fellow 2014

3. Indiana Judges Association

a.Member 2001-Present

4. Indiana State Bar Association

a.Member 2001- Present

B. List any memberships and offices you have held in civic or charitable organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

1. Indianapolis Police Athletic League Board of Directors (1997-2000).

The mission statement at that time was as follows: The mission of the Police Athletic League is to involve the at-risk youth of the Indianapolis community in educational, cultural and fitness activities that will deter crime, increase self-esteem and promote a positive relationship with police.

2. Coburn Place Safe Haven Board of Directors (2002-2006).

Charter Member. Coburn Place is a transitional housing facility for victims of domestic abuse. Families generally live in the facility for 6 months or until they become self-supportive.

3. Martin Luther King Community Development Corporation Board of Directors (1999-2002).

This was a not-for-profit organization that used public and private funds for revitalization projects around the area of 38th Street and College Avenue in Indianapolis, Indiana.

- C. List any memberships you hold in social clubs or organizations. If any restrict its membership on the basis of race, sex, religion, or national origin, please describe your efforts within the organization to eliminate restrictions.

Lawyer's Club of Indianapolis

Member Since 2010

Social organization for male and female attorneys

- D. Describe your hobbies and other leisure activities.

Gardening, Golfing and Reading.

9. Legal Proceedings

- A. List any lawsuits or legal proceedings in any jurisdiction, including but not limited to bankruptcies, dissolutions, and criminal matters to which you have been a party. Provide dates, case numbers, courts, names of other parties, and, if needed, a brief explanation. (If minor children are involved [i.e. an adoption], use initials only.)

I believe I was sued in my capacity as the Presiding Judge of the Marion Superior Court along with others. I gave the Petition to the Office of Corporation Counsel for the City of Indianapolis and I was informed that I was dismissed from the suit. I do not know about the details.

**Jesse Clements v. Hon. John Altice and Superior Court 5 Marion County;
Cause No. 49D10-1312-MI045123. I was personally sued, as was my court, by a pro se litigant. The suit involved an alleged violation of a public records request (court transcript). On April 2, 2015, the trial court granted Defendant's Motion for Summary Judgment and the case was dismissed, with prejudice.**

- B. If you ever have been arrested or cited for any violation of the law other than for routine traffic violations, provide dates, jurisdictions, and an explanation of the event and its resolution.

No.

- C. If you have been disciplined or cautioned, formally or informally, by the Indiana Supreme Court Disciplinary Commission, by the Indiana Commission on Judicial Qualifications, by the Indiana Supreme Court, or by similar entities in any other jurisdiction, identify each instance by date, case number (if applicable), and describe the circumstances and the nature of the outcome or resolution.

No- Indiana

No- Missouri

- D. If you have any outstanding federal, state, or local tax obligations, please itemize and explain.

None.

10. References

- A. Provide the names of three attorneys who have been your professional adversaries in your practice or who have litigated substantial cases in your court and who would be in positions to comment on your qualifications for appointment to the Court of Appeals of Indiana (contact information to be included in Part Two of this application).

Mr. Brent Westerfeld

Ms. Jennifer Haley Springer

Mr. James H. Voyles, Jr.

- B. Provide the names of three professional references other than those listed in Subsection 10A (contact information to be included in Part Two of this application).

The Honorable Sheila A. Carlisle

The Honorable Michael D. Keele

Mr. Scott C. Newman

- C. Provide the names of three personal references other than those listed in Subsection 10A or 10B (contact information to be included in Part Two of this application).

The Honorable Cale J. Bradford

Mr. William E. Winingham

Mr. Wayne Turner

11. State Police Release Form and Photograph

- A. Complete a State Police release form printed on green paper (you may obtain the release form by contacting the Nominating Commission Office at 317-232-4706). Include the release form with the original application only and not with the copies.

Submitted.

- B. Attach a recent photograph of you to the front of the original application and to each copy of your application. (This allows the Commission members to put a face with a name if you are interviewed in person.)

DATE

APPLICANT'S SIGNATURE

PRINTED NAME

WAIVER AND STATEMENT OF CONSENT

The undersigned applicant authorizes the release to the Indiana Judicial Nominating Commission or its staff or agents any records, reports, and documents, whether or not otherwise confidential, which may be requested by the Commission in the performance of its evaluations of candidates pursuant to I.C. § 33-27-3-2. The scope of this authorization extends to, but is not necessarily limited to, requests from the Commission for Federal, State or local tax records, criminal and driving histories from any jurisdiction, attorney and judicial disciplinary records from any jurisdiction, whether pending or closed, and credit reports and histories. The undersigned releases and discharges the Judicial Nominating Commission, its individual members, its employees, agents and representatives, the Indiana State Police, the Indiana Department of Revenue, the Indiana Supreme Court Disciplinary Commission and any other agency or person or their agents or representatives providing information to the Commission from any and all liability arising from the furnishing and use of information concerning the undersigned applicant.

The undersigned agrees and understands that the Indiana Judicial Nominating Commission or its members, agents, or employees may interview or otherwise consult with members of the legal, judicial, and general community concerning the professional qualifications and the integrity of the applicant, that the name of the applicant will be released by the Commission upon its receipt of the application and this waiver, and that if, pursuant to I.C. § 33-27-3-2(d), the applicant is given further consideration as a candidate after the Commission's initial screening of candidates, or if no such screening occurs and all applicants are considered, the application will be made public. This waiver does not constitute an election by the applicant pursuant to I.C. § 33-27-3-2(g)(3)(C) to authorize the release of investigatory records which are excepted from public inspection pursuant to I.C. § 33-27-3-2(g)(1) and (2).

The undersigned agrees to immediately supplement this application upon any event or circumstance substantially affecting any answer provided in the application.

The undersigned acknowledges having read the Instructions attached to the application.

The undersigned agrees to resign from office or membership in any political organization upon submission of this application.

The undersigned affirms that, if nominated by the Judicial Nominating Commission to the Governor and thereafter appointed to this judicial office, the candidate will accept the appointment.

DATE

APPLICANT'S SIGNATURE

PRINTED NAME